148

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE SHRI H.L. DATTU, C.J.

Contempt Petition No.90 of 2004

IN THE MATTER OF

APPLICANT S.S. Babu
Qr. No. 17/B, Avenue 'B'
Sector – 2, Bhilai Nagar (C.G.)

VERSUS

NON-APPLICANTS

1. Badruddin Quereshi
Bungalow No. 6
32 Bungiow,
Bhilai Nagar

2. Ramesh Kumar Lodhi
Qr. No. 8/A, Street No. 9
Sector -10,
Bhilai Nagar

3. D.C. Henary
Qr. No. MIG-II-185
Hudco Colony
Bhilai Nagar

4. Ganesh Prasad Tiwari
Qr. No. 35/A, Street Avenue 'C'
Sector – 2, Bhilai

Present: Shri Prashant Mishra, Additional A.G. for the State/petitioner.
Dr. N.K. Shukla, Sr. Advocate with Shri Dilip Dubey, counsel for the respondent No.1.
Shri I. S. Sahu, counsel for respondents No. 2 to 4.

ORAL ORDER

(Passed on 13th March, 2007)

This Court, based on the intimation received from the Industrial Court Chhattisgarh, Raipur has initiated suo motu contempt proceedings against the respondents.

(2) The information received by this Court is, that, the respondents, in spite of a positive direction issued in Reference No.2/I.T.U.Act/I/2003, by the Tribunal has conducted the election to a particular Trade Union and therefore, have committed an act of civil contempt and accordingly have referred the matter to this Court to initiate contempt proceedings against the respondents for their wilful disobedience of the orders passed by the Tribunal.

(3) After registering the contempt petition, on 4th September 2006 the Court had issued notices to the respondents to appear personally or through their counsel. Accordingly, they have entered appearance and they have also filed the return.

(4) In the return so filed, firstly it is contended that the elections were held to the Trade Union of the employees keeping in view the directions issued by this Court in writ petition. Apart from raising this objection on merits, it is contended that the proceedings initiated by this Court is barred by limitation as provided under the provisions of Section 20 of the Contempt of Courts Act. In support of their statement, they have relied on the observations made by the Apex Court in the case of **Pallav Sheth Vs. Custodian and others, reported in 2001 (7) SCC 549.**

> "45. It was submitted on behalf of the appellant that even if the provisions of Section 20 do not bar the High Court from taking action if proceedings are initiated by the filing of an application within a period of one year of the contempt having been committed, in the present case the period of limitation must be regarded as having expired long before the filing of the application by the Custodian and, therefore, no

(150)

action on such an application could be taken by the Court. "

(5) Shri Prashant Mishra, learned Additional Advocate General appearing for the petitioner would submit that under the provisions of Section 20 of the Contempt of Courts Act, there is nothing like limitation and what is provided is to initiate proceedings under the provisions of Contempt of Courts Act within a reasonable time and, therefore, the preliminary objections raised by the respondents have no merit. Per contra, Dr. N.K. Shukla, learned Sr. Advocate appearing for respondent No.1 would submit that the Supreme Court while considering the maximum duration within which an action can be initiated under Section 20 of the Act, has held that action must be initiated either by filing an application or by the Court issuing notice suo motu, within a period of one year. In support of that submission he takes me through para 44 of the judgment of the Supreme Court in Pallav Sheth's case.

(6) The first question that would arise for consideration in this contempt petition is, whether the suo motu proceeding initiated is within time prescribed under Section 20 of the Act.

(7) The admitted facts are, that, the Industrial Court in Reference No.2/I.T.U.Act/I/2003 had passed an order dated 02-08-2003. In the said order the non-applicants in the contempt proceedings were restrained from holding any election till the reference case is decided. Since, according to the Industrial Court, by holding election within a period of 4 months from the date of the order the respondents have committed an act of contempt by deliberately and willfully disobeying the orders passed.

151

(8) This Court for the first time issued notice to the respondents only on 04-09-2006 i.e. nearly after a period of two years. In Pallav Sheth case the Hon'ble Apex Court in para 44 of the judgment stated as under :-

> "44. Action for contempt is divisible into two categories, namely, that initiated suo motu by the court and that instituted otherwise than on the court's own motion. The mode of initiation in each case would necessarily be different. While in the case of suo motu proceedings, it is the court itself which must initiate by issuing a notice, in the other cases initiation can only be by a party filing an application. In our opinion, therefore, the proper construction to be placed on Section 20 must be that action must be initiated, either by filing of an application or by the court issuing notice suo motu, within a period of one year from the date on which the contempt is alleged to have been committed."

(9) In the instant case, the Tribunal is of the view that the non-applicants have disobeyed the orders passed by them dated 2-8-2003. After reference by them to initiate suo motu contempt proceedings, this Court issued notices to the non-applicants only on 4-9-2006, that is beyond the period of one year of the alleged contempt said to have been committed by the non-applicants. In view of the law laid down by the Apex Court, I have no other alternative but to accept the contention canvassed by the learned counsel for the respondents. In view of the fact that the contempt proceedings were initiated against the non-applicants beyond the time prescribed under Section 20 of the Act, these proceedings

cannot be continued further. Accordingly, they are dropped.

Ordered accordingly.

Sd/-
Chief Justice